



Soldier Re-employment Rights

RESERVE and National Guard Soldiers called to active duty and now returning to civilian life are likely to have questions about their employment status after their release from active federal service.

Most of those questions are addressed in the Uniformed Services Employment and Re-employment Rights Act. The USERRA is a federal law that gives members and former members of the armed forces the right to return to the civilian jobs they held before military service. The law applies to all private employers, state governments and all branches of the federal government.

Eligibility

The USERRA criteria for judging service members' eligibility for re-employment include:

✖ **Proof of Employment** — You must hold or have applied for a civilian job that is considered long-term rather than temporary.

✖ **Notification** — Giving notice to the employer prior to active duty departure is an essential component of your eligibility for re-employment. The best proof of notice is by certified letter to the employer that declares the reason for absence and your desire to

return to work, as provided by the USERRA. Be sure to make a copy of your letter, which you should keep with the certified receipt provided by the post office. Also keep copies of all future letters and correspondence from your employer.

✖ **Limits of Service** — Your absence from work cannot exceed five years. But routine absences for National Guard and Reserve training are not counted towards the total absence period.

✖ **Character of Service** — Service discharge certificates (DD-214) must be either honorable or general. Dishonorable or bad conduct discharges

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disqualify the Soldier for USERRA rights. Should you remain in the reserve component and not be discharged, some employers may still request proof from your command as to the character of service.

✂ Prompt Return — Return to work must be prompt. For example, if the absence is not more than 30 days, a report back to the first work shift is reasonable if you have safely returned from your duty station and had at least eight hours' rest. If your absence from work runs to 180 days, a written application to return to work within 14 days is appropriate. If your absence from work totals 180 days, a written application to return to work within 14 days is appropriate. If you are absent for more than 180 days, a written application for work within 90 days after completion of service is necessary.

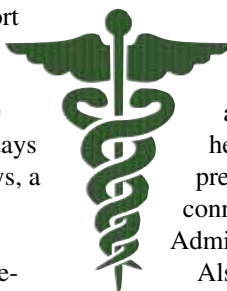
Return to the Workplace

Your status of employment upon return to work should be as though you never left. You are entitled to all pay raises, seniority, most pension rights and promotions you would have received while on the job. Employers also must provide training on new equipment or techniques that were introduced in your absence, and they must provide accommodation for service-connected disabilities.

Your New Duties

"Same-job" entitlement is based on the period of absence. If your period of service was less than 91 days, you are entitled to the job you would have attained during your absence, provided you can become qualified for the new position. If you cannot become qualified for the new job after reasonable efforts by the employer, you are entitled to the job you left.

For service periods that exceed 91 days your employer may re-employ you as above or in a position of "like seniority, status and pay" with the duties that you are qualified to perform.



Restored Benefits

Upon returning to work, you are immediately eligible for reinstatement in the company health plan, and no exclusions may be raised for pre-existing conditions, other than for service-connected conditions as determined by the Veterans Administration.

Also, the Family and Medical Leave Act grants credit to National Guard members and Reservists for time served on active duty. This can be applied toward eligibility for time off from work for events such as the birth and care of a newborn, adoption or foster care, or for a serious health condition of the employee or certain family members.

Your Rights Enforced

The law prohibits discrimination based on military service or military service obligation. For assistance or more information about the USERRA, contact the National Committee for Employer Support of the Guard and Reserve at (800) 336-4590 or (703) 696-1400, or by visiting www.esgr.org/members.

The U.S. Department of Labor Veterans Employment and Training Service is responsible for resolving and investigating reemployment issues. For more information, telephone (202) 219-9110 or visit www.dol.gov.

Army legal-assistance attorneys are also available to advise Soldiers and prepare legal correspondence, or to assist you in finding civilian legal counsel.



Uniformed Services Employment and Re-employment Rights Act

IT'S THE LAW!